

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

HARBORVIEW REALTY, INC. and
MCGREGOR REAL ESTATE,
INC.,

Plaintiffs,

v.

Case No.: 2:21-cv-942-JLB-KCD

FIFTH THIRD BANK, NATIONAL
ASSOCIATION,

Defendant.

_____ /

ORDER

Plaintiffs Harborview Realty, Inc. and McGregor Real Estate, Inc. move to compel updated discovery responses from Defendant Fifth Third Bank, National Association. (Doc. 44 ¶ 37.)¹ They also ask for an order “compelling [Fifth Third Bank to] agree to the deposition” of a new fact witness. (*Id.*) Plaintiffs’ motion is opposed, but the Court need not await a response to dispose of it. For the reasons below, the motion to compel is denied.

The problem for Plaintiffs is simple, their request is untimely. Discovery closed on September 30, 2023, which is several days before the pending motion was filed. (*See* Doc. 42.) “This district follows the rule that the completion date

¹ Unless otherwise indicated, all internal quotation marks, citations, and alterations have been omitted in this and later citations.

for discovery means just that—all discovery must be completed.” *Indus. Eng’g & Dev., Inc. v. Static Control Components, Inc.*, No. 8:12-CV-00691-T24-MAP, 2014 WL 12629953, at *1 (M.D. Fla. June 26, 2014). A motion to compel filed after the discovery deadline is thus dead on arrival. *See El-Saba v. Univ. of S. Alabama*, 738 F. App’x 640, 645 (11th Cir. 2018) (affirming denial of a motion to compel as untimely where it “was filed almost two weeks after” discovery closed); *Eli Rsch., LLC v. Must Have Info Inc.*, No. 2:13-CV-695-FTM-38CM, 2015 WL 4694046, at *2 (M.D. Fla. Aug. 6, 2015) (denying motion to compel filed three days after discovery closed).

Plaintiffs have also moved to extend the discovery deadline. (*See* Doc. 43.) If discovery is reopened, Plaintiffs can (and should) refile their motion to compel. But until that occurs, this discovery dispute is a nonstarter. *See, e.g., Gov’t Emps. Ins. Co. v. Merced*, No. 8:20-CV-802-KKM-AAS, 2022 WL 218485, at *1 (M.D. Fla. Jan. 25, 2022).

Accordingly, it is **ORDERED**:

Plaintiffs’ Motion to Compel (Doc. 44) is **DENIED WITHOUT PREJUDICE**.

ENTERED in Fort Myers, Florida on October 3, 2023.


Kyle C. Dudek
United States Magistrate Judge